

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

---

**DENNIS DIMON,**

**Plaintiff,**

**VS.**

**METROPOLITAN LIFE  
INSURANCE COMPANY, KEMPER  
INSURANCE COMPANY,  
MORGAN STANLEY DW, INC.,  
MICHAEL B. LATTI, LATTI  
ASSOCIATES, and LATTI &  
ANDERSON LLP,**

**Defendants.**

---

**C. A. No: 05-11073 NG**

**METROPOLITAN LIFE INSURANCE COMPANY’S  
MOTION IN LIMINE  
TO PRECLUDE TESTIMONY FROM KEMPER INSURANCE COMPANY  
ON WHICH IT ASSERTED LACK OF KNOWLEDGE OR MEMORY**

**ORAL HEARING REQUESTED**

Defendant, Metropolitan Life Insurance Company (hereinafter “MetLife”), moves to preclude Kemper Insurance Company (“Kemper”) from testifying on matters which its Federal Rules of Civil Procedures, Rule 30(b)(6) witness asserted lack of knowledge or memory.

At his deposition, William R. Mensie (“Mensie”), Kemper’s Federal Rules of Civil Procedures, Rule 30(b)(6) witness testified in response to a number of questions that he did not have any personal knowledge or asserted a lack of memory. *See attached Affidavit of Melody M. McClain.* MetLife will be prejudiced if at Trial, Mensie is allowed to make statements or otherwise testify regarding the matters to which Mensie asserted lack of knowledge or memory.

**WHEREFORE**, Metropolitan Life Insurance Company prays that this Court issue an Order to preclude Kemper Insurance Company (“Kemper”) from testifying on matters which its Federal Rules of Civil Procedures, Rule 30(b)(6) witness asserted lack of knowledge or memory.

**REQUEST FOR ORAL ARGUMENT**

MetLife respectfully requests pursuant to Local Rule 7.1(D) that the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife’s Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE  
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak  
James J. Ciapciak, BBO # 552328  
Peter M. LeBlanc, BBO # 645302  
CIAPCIAK & ASSOCIATES, P.C.  
99 Access Road  
Norwood, MA 02062  
Tel: (781) 255-7401  
Fax: (781) 255-7402

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 13, 2008.

/s/ James J. Ciapciak

A

UNITES STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DENNIS DIMON,  
Plaintiff

vs.

METROPOLITAN LIFE  
INSURANCE COMPANY and KEMPER  
INSURANCE COMPANY,

Defendants

CIVIL ACTION NO. 05-11073 NG

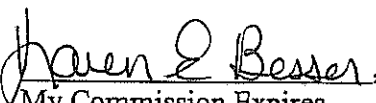
AFFIDAVIT OF MELODY M. MCCLAIN

I, Melody M. McClain, do depose and swear as follows:

1. I am above the age of eighteen and am of sound mind.
2. I am employed by Ciapciak & Associates as a paralegal.
3. From my review of the deposition transcript of William R. Mensie, 30(b)(6) witness on behalf of the Defendant, Kemper Insurance Company, conducted on September 7 and 8, 2006, in response to almost all of the questions posed to the witness, the witness responded "I do not know," or had no knowledge of the policies and procedures of Kemper in 1983.

  
Melody M. McClain

Signed and sworn under the penalties of perjury this 3<sup>rd</sup> day of May, 2008.

, Notary Public  
My Commission Expires



KAREN E. BESSER  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
October 12, 2012